

Message Text

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TO USMISSION GENEVA PRIORITY

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E.O. 11652:

TAGS: PGOU, PFOR, UN, ECOSOC

SUBJECT: US PROPOSAL ON ILLICIT PAYMENTS

1. FOLLOWING DRAFT STATEMENT FORWARDED FOR POSSIBLE USE BY AMBASSADOR MYERSON IN PRESENTING U.S. PROPOSAL: BEGIN QUOTE: I WANT TO DISCUSS WITH YOU TODAY A SERIOUS PROBLEM IN THE FIELD OF INTERNATIONAL TRADE AND INVESTMENT. IT IS A PROBLEM WHICH HAS ALREADY AFFECTED SOME OF US, AND ONE WHICH POTENTIALLY AFFECTS ALL OF US -- EITHER DIRECTLY OR INDIRECTLY -- BY THE DIFFICULTIES IT CREATES FOR GOVERNMENTS, BUSINESSES, AND EVERYONE AFFECTED BY THE MOVEMENT OF CAPITAL AND GOODS THROUGHOUT THE WORLD. I SPEAK OF THE SERIOUS PROBLEM OF ILLICIT PAYMENTS.

2. MY GOVERNMENT BELIEVES THAT PROMPT AND EFFECTIVE ACTION BY ECOSOC IS ESSENTIAL AT THIS TIME TO CONTROL SUCH PRACTICES. THE U.S. POSITION WHICH, I AM SURE, IS SHARED BY ALL GOVERNMENTS AT THIS MEETING, IS TO CONDEMN IN THE

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STRONGEST TERMS ILLEGAL OR QUESTIONABLE PAYMENTS INVOLVING

FIRMS OPERATING AT HOME OR INTERNATIONALLY. IN OUR VIEW, THESE PRACTICES ARE ETHICALLY WRONG, ECONOMICALLY UNSOUND, AND POLITICALLY HARMFUL. THEY CREATE SERIOUS PROBLEMS IN RELATIONS AMONG GOVERNMENTS. THE FULL EXTENT OF THESE PAYMENTS IS NOT KNOWN, BUT THE PROBLEM HAS REACHED ALARMING

PROPORTIONS.

3. MY GOVERNMENT DOES NOT LIMIT ITS CONDEMNATION OF THESE PAYMENTS TO WORDS. MANY OF THE REVELATIONS MADE OVER THE PAST SEVERAL MONTHS RESULTED FROM INVESTIGATIONS BY MY GOVERNMENT OF AMERICAN COMPANIES AND PUBLICATION OF THE INFORMATION OBTAINED. THE UNITED STATES IS SECOND TO NO COUNTRY IN ITS DETERMINATION TO REVEAL AND ELIMINATE ILLICIT PAYMENTS INVOLVING ITS OWN COMPANIES INTERNATIONALLY.

4. WE RECENTLY PROVIDED THE SECRETARY GENERAL OF THE UN WITH A DETAILED REPORT OF THE STEPS WE HAVE TAKEN TO CURB THESE ABUSES. ON THE NATIONAL LEVEL, OUR ENFORCEMENT AGENCIES HAVE TAKEN VIGOROUS ACTION TO EXPOSE AND PROSECUTE VIOLATORS OF U.S. LAWS RELEVANT TO ILLICIT PAYMENTS ABROAD. MY GOVERNMENT HAS ALSO ENTERED INTO BILATERAL AGREEMENTS WHICH PROVIDE FOR THE EXCHANGE OF INFORMATION AND OTHER ASSISTANCE IN CONNECTION WITH INVESTIGATIONS OF ALLEGED IMPROPER PAYMENTS. PRESIDENT FORD, IN AN EFFORT TO ENSURE THAT THE U.S. GOVERNMENT TAKES THE MOST EFFECTIVE ACTION ON THIS ISSUE AT BOTH THE NATIONAL AND INTERNATIONAL LEVELS, HAS CREATED A CABINET LEVEL GROUP TO CONDUCT A COORDINATED REVIEW OF ON-GOING EFFORTS AND POSSIBLE ADDITIONAL APPROACHES. THE PRESIDENT RECENTLY ANNOUNCED HIS INTENTION TO ASK CONGRESS FOR ADDITIONAL LEGISLATION TO ENHANCE THE DETERRENT EFFECT OF U.S. LAW.

5. WE EXPECT THESE ACTIONS TO GO A LONG WAY TOWARDS ELIMINATING ILLICIT PAYMENTS INVOLVING OUR OWN FIRMS. HOWEVER, IT IS EQUALLY CLEAR TO US THAT THIS PROBLEM IS INTERNATIONAL IN SCOPE AND INVOLVES A WIDE RANGE OF TRADE AND INVESTMENT TRANSACTIONS. THEREFORE, THE ONLY LIMITED OFFICIAL USE

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EFFECTIVE APPROACH TO THE ISSUE IS ONE BASED ON COOPERATIVE INTERNATIONAL ACTION BY GOVERNMENTS. ONLY INTERNATIONAL ACTION CAN EFFECTIVELY ENSURE THAT MEASURES ARE TAKEN TO DEAL WITH THOSE WHO SOLICIT AND ACCEPT BRIBES, AS WELL AS THOSE WHO OFFER OR PAY BRIBES. ONLY COOPERATIVE INTERNATIONAL ACTION WILL ENSURE THAT RELATIONS BETWEEN COUNTRIES WILL NOT BE DAMAGED BY THE UNILATERAL DISCLOSURE OF CORRUPT ACTION INVOLVING FIRMS AND GOVERNMENT OFFICIALS.

6. WE SEEK ACTION TO ELIMINATE PRACTICES WHICH ARE RECOGNIZED AS CRIMINAL UNDER THE LAWS OF NEARLY ALL COUNTRIES IN THE WORLD. MY GOVERNMENT BELIEVES THAT WE MUST CONTINUE TO RELY ON NATIONAL LEGISLATION TO DEFINE

THOSE PAYMENTS AND PRACTICES WHICH ARE TO BE PROHIBITED, AND TO ESTABLISH THE REQUISITE PROCEDURAL SAFEGUARDS IN THE ENFORCEMENT AREA. HOWEVER, WHILE HOST GOVERNMENTS MUST TAKE PRIMARY RESPONSIBILITY FOR ELIMINATING ILLICIT PAYMENTS WITHIN THEIR TERRITORIES, BOTH HOME AND HOST GOVERNMENTS MUST COOPERATE INTERNATIONALLY IF THESE PRACTICES, WHICH ARE HARMFUL TO US ALL, ARE TO BE ERADICATED. MY GOVERNMENT BELIEVES THAT ALL COUNTRIES HERE WOULD AGREE WITH THIS ASSESSMENT, AS ALL OF YOU SUPPORTED GENERAL ASSEMBLY RESOLUTION 3514, WHICH WAS ADOPTED BY CONSENSUS LAST DECEMBER. THIS RESOLUTION CONDEMNED CORRUPT PRACTICES, INCLUDING BRIBERY BY TRANSNATIONAL AND OTHER CORPORATIONS, THEIR INTERMEDIARIES AND OTHERS INVOLVED, AND CALLED UPON HOME AND HOST GOVERNMENTS TO COOPERATE TO PREVENT SUCH PRACTICES.

7. IT IS IN THE SPIRIT OF THAT RESOLUTION AND OUR DESIRE TO CARRY OUT ITS MANDATE, THAT WE HAVE PROPOSED THAT AN INTERNATIONAL TREATY ON ILLICIT PAYMENTS BE NEGOTIATED. WE FIRST MADE THIS PROPOSAL LAST MARCH IN LIMA BEFORE THE UN COMMISSION ON TRANSNATIONAL CORPORATIONS. THE COMMISSION FORWARDED OUR PROPOSAL TO THIS BODY AND RECOMMENDED THAT PRIORITY ACTION BE TAKEN ON THIS ISSUE. IT IS ABSOLUTELY ESSENTIAL THAT THE INITIAL STEPS BE TAKEN AT THIS MEETING TO LAY THE FOUNDATION FOR EFFECTIVE ACTION INTERNATIONALLY.

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8. THE SCANDALS OF THE PAST TWO YEARS HAVE HAD A PROFOUND IMPACT ON INTERNATIONAL TRADE AND INVESTMENT. SOME QUESTIONABLE PRACTICES HAVE THEIR ROOTS IN AGE-OLD TRADITIONS AND CANNOT BE ERADICATED OVERNIGHT. OTHER PRACTICES REPRESENT A NEW TREND WHICH HAS ACCOMPANIED THE INCREASED LEVELS OF TRADE AND INVESTMENT IN THE POST WORLD WAR II ERA. WE MUST TACKLE THIS PROBLEM NOW.

9. THERE MAY BE SOME WHO BELIEVE THAT THE OLD WAYS CAN CONTINUE, OR THAT THEY CANNOT BE CHANGED, OR THAT THEY NEED TO BE STUDIED FURTHER. WE CANNOT AGREE. TIMES HAVE CHANGED. GOVERNMENTS INDIVIDUALLY ARE AWAKENING TO THE PROBLEM AND TAKING INDIVIDUAL ACTION. A PROCESS HAS BEEN SET IN MOTION THAT CANNOT BE ARRESTED. IT IS CRITICAL THAT WE AGREE ON AN INTERNATIONAL FRAMEWORK --

NOT TO STUDY THE PROBLEM -- BUT TO DEAL WITH THE ISSUE.

10. WE HAVE PLACED BEFORE YOU A RESOLUTION CALLING FOR THE IMMEDIATE ESTABLISHMENT OF A GROUP OF EXPERTS TO WORK ON THE DRAFT TEXT OF AN ACTUAL AGREEMENT. WE DO NOT WANT TO PREJUDGE THE EFFORTS OF THE GROUP, WHICH SHOULD BE ABSOLUTELY FREE TO EXAMINE ALL ASPECTS OF THE PROBLEM AND

VARIED APPROACHES TO THE CONTENT OF A TREATY. BUT TO "STUDY" THE PROBLEM IS TO EVADE THE COMPELLING ARGUMENTS FOR ACTION.

11. I AM CONVINCED THAT THERE IS A BROAD INTERNATIONAL CONSENSUS ON THE NEED TO CURB ILLICIT PAYMENTS. IT IS IMPERATIVE THAT WE TAKE ACTION ON THIS ISSUE PROMPTLY WHILE PUBLIC CONCERN IS STILL HIGH. FURTHER, THIS ISSUE IS ONE IN WHICH THE INTERESTS OF BOTH DEVELOPED AND DEVELOPING NATIONS COINCIDE. AGREEMENT TO ESTABLISH A GROUP OF EXPERTS TO DRAFT A TREATY WOULD PROVIDE A VALUABLE EXAMPLE OF THE CONCRETE PROGRESS WE SEEK IN RESOLVING THIS DIFFICULT ISSUE. WE, AT THIS TIME, ARE NOT PROPOSING A PARTICULAR FORM FOR THIS TREATY. WE BELIEVE THAT THIS JUDGMENT SHOULD BE ENTRUSTED TO THE EXPERTS, WHO CAN CONSIDER THE INTERESTS OF ALL SIDES IN CAREFUL, DELIBERATE FASHION BEFORE COMING TO

DEFINITIVE CONCLUSIONS. BUT WE ARE FIRM IN OUR BELIEF THAT LIMITED OFFICIAL USE

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A TREATY IS THE MOST APPROPRIATE MEANS OF ENSURING THAT EFFECTIVE CONCERTED ACTION IS TAKEN AT THE INTERNATIONAL LEVEL TO ELIMINATE ILLICIT PAYMENTS AND RELATED PRACTICES.

12. IN CONCLUSION, I ASK THAT EACH OF YOU CONSIDER CAREFULLY THE MERITS OF MY GOVERNMENT'S PROPOSED RESOLUTION. I AM CONFIDENT THAT AN OBJECTIVE EXAMINATION OF OUR PROPOSAL WILL RESULT IN WIDESPREAD SUPPORT, FOR IT GIVES US THE OPPORTUNITY TO DEMONSTRATE OUR DETERMINATION TO COME TO GRIPS AT LAST WITH THIS MOST PERNICIOUS PROBLEM. END QUOTE
ROBINSON

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